

Calendar No. 411

104TH CONGRESS
2D Session
S. 1635

A BILL

To establish a United States policy for the deployment of a national missile defense system, and for other purposes.

MAY 16, 1996
Reported without amendment

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2D SESSION**S. 1635**

To establish a United States policy for the deployment of a national missile defense system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 1996

Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPThORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Armed Services

MAY 16, 1996

Reported by Mr. THURMOND, without amendment

A BILL

To establish a United States policy for the deployment of a national missile defense system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “Defend America Act
5 of 1996”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Although the United States possesses the
4 technological means to develop and deploy defensive
5 systems that would be highly effective in countering
6 limited ballistic missile threats to its territory, the
7 United States has not deployed such systems and
8 currently has no policy to do so.

9 (2) The threat that is posed to the national se-
10 curity of the United States by the proliferation of
11 ballistic missiles is significant and growing, both
12 quantitatively and qualitatively.

13 (3) The trend in ballistic missile proliferation is
14 toward longer range and increasingly sophisticated
15 missiles.

16 (4) Several countries that are hostile to the
17 United States (including North Korea, Iran, Libya,
18 and Iraq) have demonstrated an interest in acquir-
19 ing ballistic missiles capable of reaching the United
20 States.

21 (5) The Intelligence Community of the United
22 States has confirmed that North Korea is developing
23 an intercontinental ballistic missile that will be capa-
24 ble of reaching Alaska or beyond once deployed.

25 (6) There are ways for determined countries to
26 acquire missiles capable of threatening the United

1 States with little warning by means other than in-
2 digenous development.

3 (7) Because of the dire consequences to the
4 United States of not being prepared to defend itself
5 against a rogue missile attack and the long-lead time
6 associated with preparing an effective defense, it is
7 prudent to commence a national missile defense de-
8 ployment effort before new ballistic missile threats to
9 the United States are unambiguously confirmed.

10 (8) The timely deployment by the United States
11 of an effective national missile defense system will
12 reduce the incentives for countries to develop or oth-
13 erwise acquire intercontinental ballistic missiles,
14 thereby inhibiting as well as countering the pro-
15 liferation of missiles and weapons of mass destruc-
16 tion.

17 (9) Deployment by the United States of a na-
18 tional missile defense system will reduce concerns
19 about the threat of an accidental or unauthorized
20 ballistic missile attack on the United States.

21 (10) The offense-only approach to strategic de-
22 terrence presently followed by the United States and
23 Russia is fundamentally adversarial and is not a
24 suitable basis for stability in a world in which the
25 United States and the states of the former Soviet

1 Union are seeking to normalize relations and elimi-
2 nate Cold War attitudes and arrangements.

3 (11) Pursuing a transition to a form of strate-
4 gic deterrence based increasingly on defensive capa-
5 bilities and strategies is in the interest of all coun-
6 tries seeking to preserve and enhance strategic sta-
7 bility.

8 (12) The deployment of a national missile de-
9 fense system capable of defending the United States
10 against limited ballistic missile attacks would (A)
11 strengthen deterrence at the levels of forces agreed
12 to by the United States and Russia under the
13 START I Treaty, and (B) further strengthen deter-
14 rence if reductions below START I levels are imple-
15 mented in the future.

16 (13) Article XIII of the ABM Treaty envisions
17 “possible changes in the strategic situation which
18 have a bearing on the provisions of this treaty”.

19 (14) Articles XIII and XIV of the treaty estab-
20 lish means for the parties to amend the treaty, and
21 the parties have in the past used those means to
22 amend the treaty.

23 (15) Article XV of the treaty establishes the
24 means for a party to withdraw from the treaty, upon
25 six months notice “if it decides that extraordinary

1 events related to the subject matter of this treaty
2 have jeopardized its supreme interests”.

3 (16) Previous discussions between the United
4 States and Russia, based on Russian President
5 Yeltsin’s proposal for a Global Protection System,
6 envisioned an agreement to amend the ABM Treaty
7 to allow (among other measures) deployment of as
8 many as four ground-based interceptor sites in addi-
9 tion to the one site permitted under the ABM Trea-
10 ty and unrestricted exploitation of sensors based
11 within the atmosphere and in space.

12 **SEC. 3. NATIONAL MISSILE DEFENSE POLICY.**

13 (a) It is the policy of the United States to deploy by
14 the end of 2003 a National Missile Defense system that—

15 (1) is capable of providing a highly-effective de-
16 fense of the territory of the United States against
17 limited, unauthorized, or accidental ballistic missile
18 attacks; and

19 (2) will be augmented over time to provide a
20 layered defense against larger and more sophisti-
21 cated ballistic missile threats as they emerge.

22 (b) It is the policy of the United States to seek a
23 cooperative transition to a regime that does not feature
24 an offense-only form of deterrence as the basis for strate-
25 gic stability.

1 **SEC. 4. NATIONAL MISSILE DEFENSE SYSTEM ARCHITEC-**
2 **TURE.**

3 (a) REQUIREMENT FOR DEVELOPMENT OF SYS-
4 TEM.—To implement the policy established in section
5 3(a), the Secretary of Defense shall develop for deploy-
6 ment an affordable and operationally effective National
7 Missile Defense (NMD) system which shall achieve an ini-
8 tial operational capability (IOC) by the end of 2003.

9 (b) ELEMENTS OF THE NMD SYSTEM.—The system
10 to be developed for deployment shall include the following
11 elements:

12 (1) An interceptor system that optimizes defen-
13 sive coverage of the continental United States, Alas-
14 ka, and Hawaii against limited, accidental, or unau-
15 thorized ballistic missile attacks and includes one or
16 a combination of the following:

17 (A) Ground-based interceptors.

18 (B) Sea-based interceptors.

19 (C) Space-based kinetic energy intercep-
20 tors.

21 (D) Space-based directed energy systems.

22 (2) Fixed ground-based radars.

23 (3) Space-based sensors, including the Space
24 and Missile Tracking System.

25 (4) Battle management, command, control, and
26 communications (BM/C³).

1 **SEC. 5. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE**
2 **SYSTEM.**

3 The Secretary of Defense shall—

4 (1) upon the enactment of this Act, promptly
5 initiate required preparatory and planning actions
6 that are necessary so as to be capable of meeting the
7 initial operational capability (IOC) date specified in
8 section 4(a);

9 (2) plan to conduct by the end of 1998 an inte-
10 grated systems test which uses elements (including
11 BM/C³ elements) that are representative of, and
12 traceable to, the national missile defense system ar-
13 chitecture specified in section 4(b);

14 (3) prescribe and use streamlined acquisition
15 policies and procedures to reduce the cost and in-
16 crease the efficiency of developing the system speci-
17 fied in section 4(a); and

18 (4) develop an affordable national missile de-
19 fense follow-on program that—

20 (A) leverages off of the national missile de-
21 fense system specified in section 4(a), and

22 (B) augments that system, as the threat
23 changes, to provide for a layered defense.

1 **SEC. 6. REPORT ON PLAN FOR NATIONAL MISSILE DE-**
2 **FENSE SYSTEM DEVELOPMENT AND DEPLOY-**
3 **MENT.**

4 Not later than March 15, 1997, the Secretary of De-
5 fense shall submit to Congress a report on the Secretary's
6 plan for development and deployment of a national missile
7 defense system pursuant to this Act. The report shall in-
8 clude the following matters:

9 (1) The Secretary's plan for carrying out this
10 Act, including—

11 (A) a detailed description of the system ar-
12 chitecture selected for development under sec-
13 tion 4(b); and

14 (B) a discussion of the justification for the
15 selection of that particular architecture.

16 (2) The Secretary's estimate of the amount of
17 appropriations required for research, development,
18 test, evaluation, and for procurement, for each of
19 fiscal years 1997 through 2003 in order to achieve
20 the initial operational capability date specified in
21 section 4(a).

22 (3) A cost and operational effectiveness analysis
23 of follow-on options to improve the effectiveness of
24 such system.

25 (4) A determination of the point at which any
26 activity that is required to be carried out under this

1 Act would conflict with the terms of the ABM Trea-
2 ty, together with a description of any such activity,
3 the legal basis for the Secretary's determination, and
4 an estimate of the time at which such point would
5 be reached in order to meet the initial operational
6 capability date specified in section 4(a).

7 **SEC. 7. POLICY REGARDING THE ABM TREATY.**

8 (a) ABM TREATY NEGOTIATIONS.—In light of the
9 findings in section 2 and the policy established in section
10 3, Congress urges the President to pursue high-level dis-
11 cussions with the Russian Federation to achieve an agree-
12 ment to amend the ABM Treaty to allow deployment of
13 the national missile defense system being developed for de-
14 ployment under section 4.

15 (b) REQUIREMENT FOR SENATE ADVICE AND CON-
16 SENT.—If an agreement described in subsection (a) is
17 achieved in discussions described in that subsection, the
18 President shall present that agreement to the Senate for
19 its advice and consent. No funds appropriated or otherwise
20 available for any fiscal year may be obligated or expended
21 to implement such an amendment to the ABM Treaty un-
22 less the amendment is made in the same manner as the
23 manner by which a treaty is made.

24 (c) ACTION UPON FAILURE TO ACHIEVE NEGO-
25 TIATED CHANGES WITHIN ONE YEAR.—If an agreement

1 described in subsection (a) is not achieved in discussions
2 described in that subsection within one year after the date
3 of the enactment of this Act, the President and Congress,
4 in consultation with each other, shall consider exercising
5 the option of withdrawing the United States from the
6 ABM Treaty in accordance with the provisions of Article
7 XV of that treaty.

8 **SEC. 8. ABM TREATY DEFINED.**

9 For purposes of this Act, the term “ABM Treaty”
10 means the Treaty Between the United States of America
11 and the Union of Soviet Socialist Republics on the Limita-
12 tion of Anti-Ballistic Missile Systems, and signed at Mos-
13 cow on May 26, 1972, and includes the Protocols to that
14 Treaty, signed at Moscow on July 3, 1974.